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March 6, 2020

**VIA ECF**

Honorable Analisa Torres  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: *Dolores, et al. v. Titan Constr. Servs, LLC, et al.***  
**Civil Action No. 1:19-cv-11056**

Dear Judge Torres:

We represent Defendants Titan Construction Services, LLC, Jose Inaky Garcia, and Juan Garcia (collectively, “Defendants”) in the above-referenced matter. We write jointly with Plaintiffs to request that mediation in this matter be deferred until the parties have engaged in some discovery.

**Background**

Plaintiffs initially filed a Complaint in this action on or about December 2, 2019. The Complaint alleged that Defendants, along with three other entities and three other individuals (collectively “Other Defendants”), violated the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”) by, among other things, failing to pay allegedly required overtime and minimum wages to Plaintiffs as well as members of the putative class and collective that Plaintiffs seek to represent.

Pursuant to Rule III(B) of Your Honor’s Individual Practices, on January 21, 2020, Defendants sent a pre-motion letter to Plaintiffs noting deficiencies in the Complaint with respect to the claims against them. In response, Plaintiffs informed Defendants that they would file an

A Pennsylvania Limited Liability Partnership

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Amended Complaint to potentially cure such deficiencies. Plaintiffs filed their Amended Complaint on February 25, 2020. On March 2, 2020, in accordance with Your Honor's Individual Practices, Defendants sent another letter to Plaintiffs asserting that there were still deficiencies in the Amended Complaint. Plaintiffs are reviewing Defendants' letter and will respond to it in accordance with Your Honor's Individual Practices. The Other Defendants have not entered an appearance in this case, responded to either the Complaint or Amended Complaint, nor submitted any pre-motion letter to Plaintiffs.

It is Defendants position that they never employed Plaintiffs and that they are not Plaintiffs' "employer" as that term is defined and construed under the FLSA and NYLL. Defendants assert that the Other Defendants employed Plaintiffs. Plaintiffs vigorously dispute Defendants assertion and Plaintiffs maintain that Defendants and Other Defendants are, at a minimum, joint employers within the meaning of the FLSA and NYLL.

**Mediation**

On December 30, 2019, the Court referred this matter to mediation. Since that date, the parties have had a number of telephone conferences among themselves and with the Court-appointed mediator. During these discussion the parties noted a number of issues with going forward with mediation, especially in light of the non-appearance of the Other Defendants. Most notably, Defendants do not have any time or payroll records for Plaintiffs as such documents reside with the Other Defendants. Therefore, it is very difficult for the parties to evaluate the strengths and weaknesses of their case without any discovery to have an effective mediation. Accordingly, the parties jointly request that the mediation referral be deferred until after Plaintiffs and Defendants have had the opportunity to engage in some discovery in this action.

Should Your Honor have any questions or concerns, the Plaintiffs and Defendants are available at the Court's convenience.

Respectfully submitted,



Glenn S. Grindlinger

cc: All counsel of record via ECF

GRANTED. Mediation in this matter is deferred until after the start of discovery. The parties' joint letter in advance of the initial pretrial conference, due on March 26, 2020, shall include an update on the status of the Defendants that have not yet appeared.

SO ORDERED.



ANALISA TORRES  
United States District Judge

Dated: March 6, 2020  
New York, New York